IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 22406 of 2007(P)

PETITIONER:

FR. JOHN MOOLAMATTOM,VICAR
ST. JOHN'S ORTHODOX SYRIAN CHURCH, KANNIYATTU
NIRAPPU,KUZHIKKARA KARA, THIRUVANIYOOR VILLAGE,
KUNNATHUNADU TALUK.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:
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1. THE DEPUTY DIRECTOR OF EDUCATION,
KAKKANADU, ERNAKULAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
ALUVA.

3. M.Y.SAJU,S/O. YOHANNAN,
MALIEKKAL HOUSE, KOKKAPPILLY KARA,
THIRUVANIYOOR VILLAGE.

4. NEEPA PAUL, W/O. ELDHOSE K. PAUL,
KUTTIPARCHIL HOUSE, KINGINIMATTOM,
KOLENCHERRY.

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.PAUL ABRAHAM VAKKANAL
SRI.BIJIMON C.CHERIAN
SRI.ARUL KUMAR.P
SRI.LOWEL CHERIAN
GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of Order No.DIS-B4-4454/97 dated 30-9-99.

Ext.P2: True copy of appeal dated 12.6.07

Ext.P3: True copy of postal acknowledgment card.

RESPONDENT'S EXHIBITS:

Ext.R3(a): True copy of the order in I.A.No.70/07 in O.S.No.100/07 of Sub-Court Perumbavoor

Ext.R3(b): True copy of the judgment in W.P.(C)No.5815/07 of the High Court.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.22406 OF 2007

Dated this the 27th day of July, 2007

JUDGMENT

Petitioner claims that he is the Vicar of St. John's Orthodox Syrian Church, Kanniyattunirappu of Kunnathunadu Taluk. He impugns the order of approval granted by the Controlling Officer for the appointment of respondent no.4. According to the petitioner, respondent no.3 had ceased to be the manager of the school a long time ago and he had no authority or sanction of law to make the appointment in question.

2. Respondents 3 and 4 have filed counter affidavit in which all the claims and allegations made by the petitioner have been refuted. It is alleged that the petitioner is not the Vicar as contended by him. He is only an Assistant Vicar. It is also contended that respondent no.3 is entitled to continue as manager till fresh election is held. More importantly, approval of appointment of respondent no.4 as manager had been approved by the Department as is admitted by the

petitioner himself. It is also contended that some of the parishioners had in fact challenged the order of appointment of respondent no.4 before the civil court in two suits unsuccessfully. It is thereafter that petitioner has come up with this writ petition.

3. It is true that petitioner has only prayed for a direction to the appellate authority to consider the appeal preferred against the order of approval. The appeal is stated to be pending before respondent no.1. A copy of the appeal memorandum is on record as Ext.P2. The limited prayer is to issue a direction to respondent no.1 to take a decision on the appeal expeditiously.

4. Learned counsel for respondents 3 and 4 takes strong exception to the very inception and maintainability of the appeal. However he submits that there is no objection in issuing a direction as prayed for. But the only plea is that there may be a direction to respondent no.1 to afford sufficient opportunity to respondents 3 and 4 to be heard before any decision is taken in the matter.

5. In the above facts and circumstances, writ petition is disposed of with a direction to respondent no.1 to consider and pass orders on Ext.P2 appeal strictly on its merit and in accordance with law as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Respondent no.1 shall ensure that the petitioner, respondent no.3, 4 and all others who are likely to be interested in the affairs of the church and the school are afforded sufficient opportunity to be heard before any decision is taken in the matter. Petitioner shall produce a copy of the writ petition and counter affidavit along with a certified copy of the judgment before respondent no.1 for compliance.

Writ petition is disposed of in the above terms.

A.K.BASHEER, JUDGE

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